

Winter, 2004

## TOE THE LINE – A FOOT NOTE

### Why pre-pay renewal of License Fees?

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The Board has received numerous phone inquiries regarding the practice of advanced annual collection of license renewal fees. Your license fee must be prepaid in its entirety **before** the license gets issued, renewed or activated.

COMAR 10.40.03.02.B(1)(3) stipulates that licensing fees must be paid on an annual basis. COMAR 10.40.03.03 states that “Fees are subject to change by action of the Board of Podiatric Medical Examiners. All licensees and applicants will be notified of the change.” Half of the licensing fee is due one year prior to the license renewal, and the other half is due the first of the month of December, in the year in which the license expires—December 1, 2005, thus allowing Board staff to process the issuance of licenses before

their expiration date.

Because the Board is a 100% Special Funded entity, the revenue collected from licensing fees covers the operating costs of the Board. The Board is permitted to maintain ONLY 25% - 30% of the allocated operating budget carryover fund balance. Therefore, if the Board collected all fees every other year, the fund balance and operating budget would be severely skewed. Every other year the carryover fund balance would be significantly higher than 30%, thus placing the operating budget and moneys allocated for the next fiscal year in jeopardy of being cut. For example, in FY 2004, the carryover fund balance was higher than the allowed 30% fund balance carryover by **\$2,000.00 only**. The moneys were taken from the Board’s Special Fund and placed in the General Fund. GONE!

By collecting the renewal fees annually, the Board protects the operating revenue which may be in jeopardy of cuts if the Board collects the entire biennial fee of \$850.00 on alternate years.

Please be advised that a late fee of \$100.00 is in regulation, and the Board will enforce collection of such. If a licensee chooses to ignore all regulations, meaning refusing to pay the annual fee in advance of issuance of license, at the time of renewal, in December 2005, the late fee will still be applied. For those licensees that intend to pay the full fee of \$850.00 in December of 2005, the late fee will still apply since the annual fee was not prepaid. Additionally, a license will not be renewed if all fees, including late fees, will not be in the Board office in accordance with COMAR.

### Controlled Dangerous Substance Permits

The Board reminds all podiatrists practicing in Maryland that they are required to hold a valid Maryland Controlled Dangerous Substance (CDS) Permit.

Some podiatrists choose not to get the permit because they believe that all that is needed is the Drug Enforcement Administration (DEA) number. However, the CDS permit is connected to the State license and

must be issued.

If a podiatrist practices at more than one location, the law requires that a separate permit be obtained for each principal place of business that manufactures, distributes, or dispenses controlled dangerous substances. Also, the Maryland CDS permit must correspond to the same DEA registered practice location.

If you are coming from out of state with a previously obtained DEA number, upon receiving a Maryland license and a CDS permit, you must inform the DEA of your new practice location. The DEA number is 410-962-7580.

To obtain the Maryland permit, call Drug Control and 410-764-2890. The cost for the permit is \$60.00. This permit must be renewed every two years.



## Billing Fraud

The following is an excerpt from PM News—July 20, 2004, Issue #2032

“At least two podiatrists in our state are under investigation for alleged fraud regarding billing for nursing home services. On each visit, the provider billed for a CPT 99311 with CPT 11721. As justification for the 99311, a pre-printed lower extremities systems review was placed in the chart with the same information each time, and for the same patient.”

Unfortunately, the Board discovers this kind of alleged fraud too often. Fraud complaints are generated by a patient or by insurance companies. The patient’s complaint usually centers around the type of treatment given, or claimed not to have been performed, or the cost of services.

Insurance generated disputes are the result of internal auditing precipitated by fees above the usual and customary.

The Board receives the patient’s complaint. Upon review, what might appear to be a fee dispute is revealed to actually involve padding of bills, fee fragmentation and /or over utilization. All of these manipulations to generate fees are illegal.

If you have coding or billing questions, ask the Board your question. The Board will get back to you with an answer. Remember that it is better to ask than to end up needing the services of a healthcare attorney.

## Expungement of Public Disciplinary Orders vis-à-vis public disciplinary history inquiries

Public Orders on licensees are distributed to a number of entities including: , Medicare Fraud Division, Drug Enforcement Administration, Division of Drug Control, Federation of Podiatric Medical Boards, the Healthcare Integrity Protection Data Bank, several insurance companies and hospitals.

tals.

Though the Board may have expunged a disciplinary action, if the inquirer requests the public Order from another agency the details of that public Order will be made available even though the Board will answer “No History”, according to the terms of the expungement. Licensees who

have had an Order expunged should consult their Health Care Attorneys if they have questions concerning how to answer the standard re-credentialing form.

The Board will not proffer advice to an inquiry about the appropriate response that a practitioner should give to the re-credentialing agency.

## Public Disciplinary Action

Board executed Final Consent Orders are public documents. Copies of any issued Final Consent Orders may be obtained by providing a signed written request and submission of twenty-five dollars for processing the request.

Craig Lane, D.P.M.  
**Final Decision and Order**  
July, 2004

Allen Moien, D.P.M.  
**Final Order**  
September, 2004

## Certifying Specialty Board

The Board voted unanimously to adopt the following policy concerning podiatrists who advertise his or her certifications:  
“A podiatric physician may advertise certification by a certifying specialty board approved by the Board of Podiatric Medical Examiners

or by the American Podiatric Medical Association.”

The Board’s authority to implement this policy is derived from the Code of Maryland Regulations Title 10, Subtitle 40, Chapter 06-Advertising.

## Advertising complaints

During the past year, the Board has reviewed a number of complaints concerning advertisements which contain statements which are false and misleading to the public. Advertising statements are considered to be misleading if they create unwarranted expectations in the reader of the ad or the advertisement promises results which cannot be factually

supported. Statements which the Board considers false and misleading include:

- Surgery is “painless”
- Patients can resume normal activities “promptly” after surgery.
- We are the only practice treating these patients exclusively.
- With the podiatrist’s advanced clinical and surgical

training s/he can provide **superior** healthcare

- Testimonials which speak to the success of certain procedures might create an unjustified expectation of favorable results for all patients undergoing the same procedure.
  - The words “premier” or “superior” as a part of a Trade Name.
- Please read COMAR, Title 10, Subtitle 40, .01-.06 for more

## QUESTIONS AND ANSWERS REGARDING HIPAA

Questions that have been asked the Board include:

- If a patient tells a podiatrist about illegal conduct of a previous podiatrist, does the HIPAA privacy provision prohibit the new podiatrist from reporting the incident and the patient involvement?  
*ANSWER "NO" Under HIPAA regulations, the HIPAA provision is exempted in favor of the statutory state investigation. The doctor will be ethically required to report illegal activity, including divulging patient information.*
- If the Board subpoenas patient records from a podiatric practice, are the records protected from disclosure under HIPAA? AGAIN, "NO" the HIPAA protections are exempted in favor of the enforcement of a lawfully issued subpoena and/or court order.
- Must an Authorization include an expiration date?  
*ANSWER "YES" The Privacy Rule requires that an Authorization contain either an expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure.*
- Generally, what does the HIPAA Privacy Rule require the average provider or health plan to do?  
*ANSWER: Notify patients about their privacy rights and how their information can be used; Adopt and implement privacy procedures for the office, hospital or plan; Train employees so that they understand the privacy procedures; Designate an individual to be responsible for seeing that the privacy procedures are adopted and followed and; Secure patient records containing individually identifiable health information so that they are not readily available to those who do not need them.*

The Board of Podiatric Medical Examiners wishes to welcome the following podiatrists to their respective practices in Maryland:

**Full Licenses:**

Tatyana Abramova, DPM  
Brian Belgin, DPM  
Mukesh Bhakta, DPM  
Debra Boender, DPM  
Abigail Brannon, DPM

Bradley Lamm, DPM  
Dana N. Linn, DPM  
Svetlana Malinsky, DPM  
Yasir Mir, DPM  
Dick Y. Okino, DPM  
Brett Sachs, DPM  
Jeffrey Steinberg, DPM  
Stacey Sanders, DPM  
Joanna Shuman, DPM



## Healthcare Integrity and Protection Data Bank

The Health Integrity and Protection Data Bank (HIPDB) is an information clearinghouse created by Congress to improve health care quality and reduce health care fraud and abuse in the US.

The HIPDB receives and discloses information related to final adverse actions taken against health care practitioners, providers and suppliers.

The Health Insurance Portability and Accountability Act of 1996 mandates all Public Orders to be filed within 30 calendar days of one of the following:

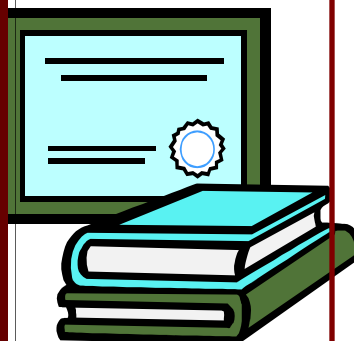
1. The date the action took place, or
2. When the reporting entity became aware of the adverse action, or
3. By the entity's next monthly

reporting cycle.

Consequently, if there is a Public Order issued on a podiatric license, the Board MUST send the information to the data bank. The information can then be queried by hospitals, health care regulatory entities and health plans to help determine whether a practitioner should be given clinical privileges, employment, affiliation or licensure.

# W e l c o m e





## Changing Addresses?

The Board is in the middle of collecting licensing fees for the 2006-2007 licensing cycle. Therefore, it is vital for the Board to have your current address on file so that we can contact you to ascertain whether you will be practicing podiatry in Maryland in 2006-2007.

Please remember that Board policy dictates that all change of address requests be in writing and signed by the person of interest. A \$100.00 fine for non-compliance will be issued to podiatrists who fail to notify the Board of an address change. This is the Law.

## Continuing Education Credits

ongoing courses	Various subject	<a href="http://www.temple.edu/podiatry">http://www.temple.edu/podiatry</a>	1.5 CME
ongoing courses	Foot and ankle quarterly	Data Trace Publishing Company	2.5 PER Unit
9/30/04 - 10/3/04	Update 2004	The Podiatry Institute San Diego, California	25 CME
10/15 - 10/17/04	Mid-Atlantic Podiatry Podiatry Conference	The Podiatry Institute Washington, D.C.	20 CME
10/22 - 10/24/04	Annual Philadelphia Conference	The Podiatry Institute Philadelphia, Pennsylvania	20 CME
11/4 - 11/ 7/04	Annual Sanibel Seminar	The Podiatry Institute Sanibel Island, Florida	16 CME
additional approved courses are posted on the Board's website <a href="http://www.mbpme.org">www.mbpme.org</a>			

## Continuing Education Policy

### Deadlines

- The Board of Podiatric Medical Examiners requires **50 Continuing Medical Education (CME) hours** to be completed between the period of **12/1/2003 through 12/1/2005** for the 2006 - 2007 podiatric licensure cycle; see COMAR §40.02.03(D).
- All CME hours and license renewal payments are **due** to the Board office by **December 1, 2005**, the year of renewal. If CMES have not been turned in to the Board office by December 1, 2005 the application will be considered late and a **\$100.00 late fee** will be applied.
- Approved hours may be applied toward fulfillment of the continuing education requirements only in the specified renewal period in which they are earned.

### Documentation

- When audited you will be **REQUIRED** to submit documentation of your CME hours and a signed affidavit that you have met the CME requirement for the license renewal period. At least 25% of all licensed podiatrists will be audited during a licensure cycle. Those podiatrists that are **NOT** audited will be required to list the courses and credits and sign the CME affidavit letter, thereby guaranteeing that their necessary credits and documents needed to substantiate compliance with the CME renewal requirements have been met.
- It is the responsibility of each podiatrist to keep accurate records of attendance at approved continuing education programs and to **substantiate those records** for the current licensing cycle.

- The Board, by registered mail, may at any time request that within 10 working days a podiatrist substantiate the credit hours earned by providing satisfactory proof of attendance and completion at approved continuing education programs.

## Pre-approval of CME Courses/Materials

- **Before or immediately after attending** a Continuing Education class, submit a syllabus to the Board in order for the Board to determine the credit hours for each course. Submitting the syllabus before taking a course allows the podiatrist to know exactly how many credits the Board has approved, thereby avoiding unnecessary confusion or misinformation.
- The Board, and not the sponsor of CME hours, determines how many credit hours each continuing education activity is awarded towards a Maryland license.

## Approved Categories A and B

### Category A– Podiatric Education/\*Coding.

- At least 35 CME hours are to be taken in **Category A** which directly relate to scope of podiatric practice issues.
- **Journal club meetings** for residency programs and **hospital based podiatry** department lectures/rounds involving scientific discussion relating to the **scope of podiatric practice qualifies as CMES. Credit is awarded on the basis of 1 credit hour per 1 hour of lecture/discussion.**
- **MBPME test development activities**—Up to 25 CME hours in Category A will be awarded to podiatrists who participate in this activity. FORMAL DOCUMENTATION IS REQUIRED AT ALL TIMES.
- **Podiatric Residency Training** – Twenty Five (25) hours of category A Credit will be granted for all newly licensed podiatrists for each full year of residency training within the current licensing cycle.
- **\*Record Keeping and Coding** courses which are pre-approved by the Board can be taken up to 8 CME credits, and may be counted towards **Category A**.

### Category B—Scientific Medical Programs, Lectures or Seminars not directly related to the scope of practice of podiatry

- **15 CME hours** can be taken in **Category B**. Lectures/material on other medically related issues not directly related to the practice of podiatry are awarded only **half the credit of contract hours**. For example, a HIPAA State Conference might be credited at 8 CME hours but would be given 4 CME hours by the Board.
- Hospital grand rounds may be included in this category. Credit is awarded on the basis of 1 credit hour per 2 hours of lecture. A maximum of 15 hours may be awarded in this category.
- Coding course **pre-approved** by the Board may be taken for an additional 7 credits in this category (see also under Category A). In this Category, the Board awards one credit hour per 2 hours of presentation.

## Continuing Medical Education and the Internet

- The Board allows up to **20 CME hours online** for every 2-year renewal period. Accrued credits for Podiatry Tracts are to be counted towards the total **20 CME hours** allowable in this electronic media category. Websites acceptable for CME credit accrual must be pre-approved by the Board, or posted in the Board Newsletter.



*“The Board will not renew a license if the continuing education requirements have not been met.”*

*Board Policy*

## Review of certifying Specialty Boards

The Board approved the following policy concerning certifying specialty boards.

“A podiatric physician may advertise certification by a certifying specialty board approved by the Maryland Board of Podiatric Medical Examiners or by the American Podiatric Medical Board.

## Continuing Education policy, continued

### Categories not Approved

- Please note that practice management and professional risk loss seminars do not qualify for CME hours.
- CME credits will not be given for teaching or for lecturing in a podiatry residency program.
- The Board will not always award CME credits for classes attended. For example, the Board will not give CME hours for continuing education involving financial planning, marketing and billing for practice enhancement strategies. To avoid surprises, Board pre-approval for CME credits is **strongly** recommended.

### The importance of Continuing Medical Education

If the licensee fails to earn the required number of credit hours, the licensee may request an extension of time to fulfill this licensure requirement. The Board at its discretion, upon good cause shown, may grant an extension of time. However, the Board may impose a requirement that the podiatrist earn up to double the number of required credits still to be earned—see COMAR 10.40.02.03 (E). If an extension is not granted and the **CME requirements are not fulfilled** in the required time allotment, a License will not be renewed. This licensee will be subjected to the reinstatement requirements as stated in the Annotated Code of Maryland Health Occupations Article, Title 16-308.

**THE BOARD WILL NOT RENEW A LICENSE IF THE CONTINUING EDUCATION REQUIREMENTS HAVE NOT BEEN MET.**

## Prescribing for Self or Family

Prescriptions written by a practitioner for family, self or friends must be for the legitimate treatment of conditions within the scope of podiatric medicine and surgery. In addition, any writing of prescriptions must be supported by medical necessity and documented thoroughly in the patient's medical chart. There must be a bona-fide physician-patient relationship present to support such medication prescribing. Prescriptions written by a practitioner out of what a pharmacist knows to be the sphere of that practitioner's practice likely will be interpreted as suspect and should not be filled. It is the burden of the practitioner to convince the pharmacist that a bona-fide physician-patient

a relationship exists before the prescription is filled by the pharmacist.

Physicians generally should not treat themselves or members of their immediate families. Professional objectivity may be compromised when an immediate family member or the physician is the patient; the physician's personal feelings may unduly influence his or her professional medical judgment, thereby interfering with the care being delivered. Physicians may fail to probe sensitive areas when taking the medical history or may fail to perform intimate parts of the physical.

Patients may feel uncomfortable disclosing sensitive information to a family member or friend. In addition, when treating themselves or immediate family members, physicians may be inclined to treat problems that are beyond their expertise or training. If a negative medical outcome occurs, difficulties may be carried over into the family member's personal relationship with the physician.

In addition, it may actually be a contractual violation to bill an insurer for services rendered to a family member. Medicare specifically discusses this and prohibits submitting charges for care provided to (continued on next page)

## Prescribing for Self or Family...

cont'd from page 6

a broad range of blood relatives, relatives through marriages or even relatives through former marriages.

So, the next time your mother-in-law calls you to give her antibiotics for her sinus infection or your friend calls for pain killers for back pain, just say no. An explanation that this behavior not only jeopardizes your podiatry license but also places the health and welfare of the person at risk should be sufficient to convince the person to call their own physician.

## Permit to Dispense

Because there seems to be some confusion over the requirements of issuing starter dosages or samples in the doctor's office, the Board thought it would be wise to summarize what is required if your practice dispenses prescription drugs.

§16-205 (a) (02), of the Maryland Podiatry Act, states "After consulting with the State Board of Pharmacy, [the Board will] adopt rules and regulations regarding the dispensing of prescription drugs by a licensed

The following inquiries have been submitted before the Board:

Is it appropriate for a podiatrist to perform Achilles' tendon lengthening procedures from the level of the talus proximally to an area that may course above the malleoli in an ASC? The Board answered Yes.

In an ASC can a podiatrist perform a decompression reaming of the fibula to correct dislocating peroneal tendons? The Board answered No.

Can a lateral ankle stabilization be performed by a podiatrist in an ASC? The Board answered No.

Can an ostectomy of a single tarsal bone be performed by a podiatrist in an ASC? The Board answered Yes.

### Acupuncture

Can podiatrists administer acupuncture? The Board responded with a yes and

podiatrist;"

The Board utilizes the provisions of Title 10, Health Occupations Article, Annotated Code of Maryland §10.13.01, Dispensing Prescription Drugs by a Licensee, as the Board's authority to issue to podiatrists a Permit to Dispense.

If your practice dispenses more than a starter dosage or samples (for no charge), or more than just administering of a prescription drug in the course of treating a patient, the podiatrist must fill out an Applica-

## BOARD ISSUES

no. The Podiatrist may treat CONDITIONS OF THE FOOT by inserting needles into the foot. But a podiatrist may not treat any other condition of the body outside the scope of practice by inserting needles into the foot. For example, a DPM could not treat a headache by inserting needles on the foot. Also, a podiatrist can not treat a foot problem by inserting needles in any area other than the foot. For example, a podiatrist could not treat a heel spur with needles in the ear.

### Terminating a Patient from your practice

To terminate a patient relationship a podiatrist should send the patient a certified letter recommending three other podiatrists the patient may go to. However, the podiatrist must see the patient in an emergency.

## BOARD'S MISSION

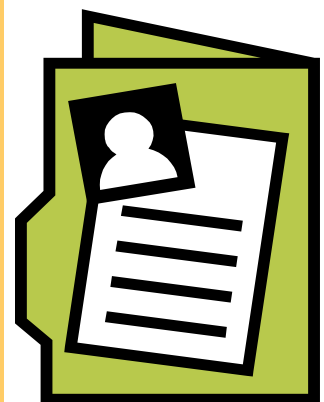
The mission of the Board of Podiatric Medical Examiners is to protect the citizens of Maryland and to promote quality health care in the field of podiatry by:

1. Licensing podiatrists and podiatric residents in training;
2. Receiving and resolving complaints from the public, courts, employers, insurance companies, other licensees regarding podiatrists who may have violated the Podiatry Act law and its regulations; and
3. Setting standards for the practice of podiatry that reflect new and emergent developments in the practice of podiatry through regulations and legislation.

tion for Dispensing Permit Packet and forward to the Board for issuance of a Dispensing Permit.

A podiatrist must record the dispensing of the prescription drug on the patient's chart

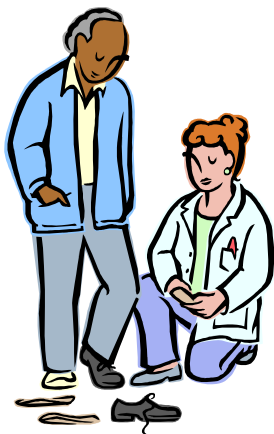
The Dispensing Permit is valid for five years and costs \$5.00, payable to the Board of Podiatric Medical Examiners. To request an application for a dispensing permit and a copy of the regulations contact the Board office.



# Maryland Board of Podiatric Medical Examiners

4201 Patterson Avenue Suite 319  
Baltimore, Maryland 21215

Toll Free Number—1-866-253-8461  
Phone: 410-764-4785  
Fax: 410-358-3083



**We are on the Web!!**  
<http://www.mbpme.org>

## WALL CERTIFICATES

The Board is offering Wall Certificates for your office. If you are interested in a Certificate with your name, the date you received your Maryland license, and the signatures of all the Board members, please make a check out to *Minuteman Press* for \$15.00. Please send your check to the Board office.

## Board Meetings

The Board of Podiatric Medical Examiners meets the second Thursday of each month at the Department of Health and Mental Hygiene, 4201 Patterson Avenue, Baltimore, Maryland 21215. The Public Session begins at 1:00 and is open to the public.

For further information regarding these meetings, or to place an item on the public agenda, please contact the Board office at (410) 764-4785.

## Hearing Impaired

For the Hearing impaired, you may contact the Board through Maryland Relay Phone Service. Please call 1-800-735-2258 and ask to be connected with the Board of Podiatric Medical Examiners number: 764-4785. The call will be transferred and will operate confidentially by telephone, as usual.

## Visually Impaired

For visually impaired practitioners or interest persons, please contact the Board at 410-764-4785 and ask for assistance.

## Impaired Podiatrist (s)

Please contact the Physician's Recovery Network at 1-800-488-4767. The Network assists impaired podiatric physicians so that they can be rehabilitated to an effective professional practitioner as required by law.

The Maryland Podiatry Act defines the Podiatrist Rehabilitation Committees saying, "A podiatrist rehabilitation committee evaluates and provides assistance to any podiatrist...in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency or other physical, emotional or mental condition.